

E-filing

ADP ORIGINAL

FILED

FILED MAY 25 P 12:14

FILED MAY 25 P 12:14

Lees Park
5 - Park
99
480

Tammy Hussin (Bar No. 155290)
Lemberg & Associates LLC
6404 Merlin Drive
Carlsbad, CA 92011
Telephone (855) 301-2100 ext. 5514
thussin@leberglaw.com

Lemberg & Associates, LLC
1100 Summer Street
Stamford, CT 06905
Telephone: (203) 653-2250
Facsimile: (203) 653-3424

Attorneys for Plaintiffs,
Iris Alvarado and Eulises Flores

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WHA

Iris Alvarado and Eulises Flores,

Plaintiffs,

vs.

Co-operative Adjustment Bureau, Inc.;
and DOES 1-10, inclusive,

Defendants.

Case No.:

CV 12-02691

COMPLAINT FOR DAMAGES
1. VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT,
15 U.S.C. § 1692 ET. SEQ;
2. VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT,
CAL.CIV.CODE § 1788 ET. SEQ.

JURY TRIAL DEMANDED

COMPLAINT FOR DAMAGES

BY FAX

1 For this Complaint, the Plaintiffs, Iris Alvarado and Eulises Flores, by
2 undersigned counsel, state as follows:
3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the Fair Debt
6 Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of
7 Plaintiffs' personal privacy by the Defendants and its agents in their illegal efforts to
8 collect a consumer debt.
9

10 2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.
11

12 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that
13 Defendants transact business here and a substantial portion of the acts giving rise to
14 this action occurred here.
15

16 **PARTIES**

17 4. The Plaintiffs, Iris Alvarado and Eulises Flores (hereafter "Plaintiffs"),
18 are adult individuals residing in East Palo Alto, California, and is a "consumer" as the
19 term is defined by 15 U.S.C. § 1692a(3).
20

21 5. Defendant Co-operative Adjustment Bureau, Inc. ("Co-operative"), is a
22 California business entity with an address of 360 Civic Drive, Suite B, Pleasant Hill,
23 California 94523, operating as a collection agency, and is a "debt collector" as the
24 term is defined by 15 U.S.C. § 1692a(6).
25
26
27
28

1 6. Does 1-10 (the "Collectors") are individual collectors employed by Co-
2 operative and whose identities are currently unknown to the Plaintiffs. One or more
3 of the Collectors may be joined as parties once their identities are disclosed through
4 discovery.
5

6 7. Co-operative at all times acted by and through one or more of the
7 Collectors.
8

9
10 **ALLEGATIONS APPLICABLE TO ALL COUNTS**

11 **A. The Debt**

12
13 8. The Plaintiffs allegedly incurred a financial obligation in the approximate
14 amount of \$3,341.90 (the "Debt") to Arbors AT Mountain View (the "Creditor").
15

16 9. The Debt arose from services provided by the Creditor which were
17 primarily for family, personal or household purposes and which meets the definition
18 of a "debt" under 15 U.S.C. § 1692a(5).
19

20 10. The Debt was purchased, assigned or transferred to Co-operative for
21 collection, or Co-operative was employed by the Creditor to collect the Debt.

22 11. The Defendants attempted to collect the Debt and, as such, engaged in
23 "communications" as defined in 15 U.S.C. § 1692a(2).
24
25
26
27
28

1 **B. Co-operative Engages in Harassment and Abusive Tactics**

2
3 12. Within the last year, Co-operative contacted Plaintiffs in an attempt to
4 collect the Debt.

5
6 13. Co-operative placed calls to a third party, Vera, in an attempt to collect
7 the Debt. Vera is not a co-signer for the Debt and is in no way associated with the
8 Debt.

9
10 14. Co-operative placed several calls to the above mentioned third party after
11 Co-operative had been in contact with Plaintiffs and knew the location information of
12 Plaintiffs.

13
14 15. During several conversations with Plaintiffs, Co-operative failed to
15 inform Plaintiff that the communication was an attempt to collect the Debt and that all
16 information obtained would be used for that purpose.

17
18 16. During several conversations with Co-operative, Plaintiffs disputed the
19 Debt and stated that they did not believe they were responsible for its repayment.

20
21 17. Co-operative stated to Plaintiffs that it was "illegal" for them to ignore
22 their financial obligations, insinuating that Plaintiffs had committed a crime or could
23 be arrested for failure to pay the Debt.

24
25 18. Co-operative threatened to immediately garnish Plaintiffs' wages unless
26 the Debt was immediately paid. At the time Co-operative made the threat, it had no
27 legal authority or present ability to affect a wage garnishment.

28

1 19. In a letter dated February 15, 2012 from Co-operative, Plaintiffs are told
2 that Co-operative has “verified the employment of the persons responsible for the
3 Debt” and states “Either you act or we will.” The letter caused Plaintiffs to believe
4 that their wages could be immediately garnished unless the Debt was immediately
5 paid.
6

7
8 20. Out of fear of being garnished, Plaintiffs made a payment to Co-operative
9 in the amount of \$182.00.
10

11 **C. Plaintiffs Suffered Actual Damages**
12

13 21. The Plaintiffs have suffered and continue to suffer actual damages as a
14 result of the Defendants’ unlawful conduct.
15

16 22. As a direct consequence of the Defendants’ acts, practices and conduct,
17 the Plaintiffs suffered and continue to suffer from humiliation, anger, anxiety,
18 emotional distress, fear, frustration and embarrassment.
19

20 23. The Defendants’ conduct was so outrageous in character, and so extreme
21 in degree, as to go beyond all possible bounds of decency, and to be regarded as
22 atrocious, and utterly intolerable in a civilized community.
23
24
25
26
27
28

COUNT I
VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT
15 U.S.C. § 1692, et seq.

24. The Plaintiffs incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

25. The Defendants contacted third parties for purposes other than to confirm or correct location information, in violation of 15 U.S.C. § 1692b(1).

26. The Defendants engaged in behavior the natural consequence of which was to harass, oppress, or abuse the Plaintiffs in connection with the collection of a debt, in violation of 15 U.S.C. § 1692d.

27. The Defendants used false, deceptive, or misleading representation or means in connection with the collection of a debt, in violation of 15 U.S.C. § 1692e.

28. The Defendants misrepresented the legal status of the debt, in violation of 15 U.S.C. § 1692e(2).

29. The Defendants threatened the Plaintiffs with garnishment if the debt was not paid, in violation of 15 U.S.C. § 1692e(4).

30. The Defendants employed false and deceptive means to collect a debt, in violation of 15 U.S.C. § 1692e(10).

31. The Defendants failed to inform the consumer that the communication was an attempt to collect a debt, in violation of 15 U.S.C. § 1692e(11).

1 32. The Defendants used unfair and unconscionable means to collect a debt,
2 in violation of 15 U.S.C. § 1692f.

3
4 33. The foregoing acts and omissions of the Defendants constitute numerous
5 and multiple violations of the FDCPA, including every one of the above-cited
6 provisions.

7
8 34. The Plaintiffs are entitled to damages as a result of the Defendants'
9 violations.

10
11 **COUNT II**
12 **VIOLATION OF THE ROSENTHAL FAIR DEBT COLLECTION**
13 **PRACTICES ACT, Cal. Civ. Code § 1788 et seq.**

14 35. The Plaintiffs incorporate by reference all of the above paragraphs of this
15 Complaint as though fully stated herein.

16 36. The Rosenthal Fair Debt Collection Practices Act, California Civil Code
17 section 1788 et seq. ("Rosenthal Act") prohibits unfair and deceptive acts and
18 practices in the collection of consumer debts.

19
20 37. Co-operative Adjustment Bureau, Inc., in the regular course of business,
21 engages in debt collection and is a "debt collector" as defined by Cal. Civ. Code §
22 1788.2(c).

23
24 38. The Defendants threatened the Plaintiffs with garnishment or attachment
25 of his wages if the debt was not paid, without intending to institute such proceedings,
26 in violation of Cal. Civ. Code § 1788.10(e).

40. The Defendants did not comply with the provisions of Title 15, Section 1692 of the United States Code, in violation of Cal. Civ. Code § 1788.17.

41. The Plaintiffs are entitled to damages as a result of the Defendants' violations.

COUNT III
INVASION OF PRIVACY BY INTRUSION UPON SECLUSION

42. The Plaintiffs incorporate by reference all of the above paragraphs of this Complaint as though fully stated herein.

COUNT III
INVASION OF PRIVACY BY INTRUSION UPON SECLUSION

42. The Plaintiffs incorporate by reference all of the above paragraphs of this Complaint as though fully stated herein.

43. The Restatement of Torts, Second, § 652B defines intrusion upon seclusion as, “One who intentionally intrudes...upon the solitude or seclusion of another, or his private affairs or concerns, is subject to liability to the other for invasion of privacy, if the intrusion would be highly offensive to a reasonable person.”

44. California further recognizes the Plaintiff's right to be free from invasions of privacy, thus the Defendants violated California state law.

45. The Defendants intentionally intruded upon Plaintiffs' right to privacy by continually harassing Plaintiffs with above referenced telephone calls.

46. The telephone calls made by the Defendants to Plaintiffs were so persistent and repeated with such frequency as to be considered, “hounding the

1 plaintiff,” and, “a substantial burden to her existence,” thus satisfying the Restatement
2 of Torts, Second, § 652B requirement for an invasion of privacy.

3
4 47. The conduct of the Defendants in engaging in the illegal collection
5 activities resulted in multiple invasions of privacy in such a way as would be
6 considered highly offensive to a reasonable person.

7
8 48. As a result of the intrusions and invasions, the Plaintiffs are entitled to
9 actual damages in an amount to be determined at trial from the Defendants.

10
11 49. All acts of the Defendants and its agents were committed with malice,
12 intent, wantonness, and recklessness, and as such, the Defendants are subject to
13 punitive damages.

14
15 **COUNT IV**
16 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

17 50. The Plaintiffs incorporate by reference all of the above paragraphs of this
18 Complaint as though fully set forth herein at length.

19
20 51. The acts, practices and conduct engaged in by the Defendants vis-à-vis
21 the Plaintiff was so outrageous in character, and so extreme in degree, as to go beyond
22 all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable
23 in a civilized community.

24
25 52. The foregoing conduct constitutes the tort of intentional infliction of
26 emotional distress under the laws of the State of California.

53. All acts of Defendants and the Collectors complained of herein were committed with malice, intent, wantonness, and recklessness, and as such, Defendants are subject to imposition of punitive damages.

54. Defendants could reasonably foresee its conduct would cause mental anguish and severe emotional distress to Plaintiff.

55. Plaintiffs did indeed suffer mental anguish and severe emotional distress including post-traumatic stress, paranoia, and depression.

56. Defendant's conduct resulted in reckless infliction of emotional distress under the laws of the State of California.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray that judgment be entered against the Defendants:

A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the Defendants;

B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A) against the Defendants;

C. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against the Defendants;

D. Actual damages pursuant to Cal. Civ. Code § 1788.30(a);

- 1 E. Statutory damages of \$1,000.00 for knowingly and willfully committing
2 violations pursuant to Cal. Civ. Code § 1788.30(b);
3
4 F. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B) & (C);
5
6 G. Actual damages from the Defendants for the all damages including
7 emotional distress suffered as a result of the intentional, reckless, and/or
8 negligent FDCPA violations and intentional, reckless, and/or negligent
9 invasions of privacy in an amount to be determined at trial for the
10 Plaintiff;
11
12 H. Punitive damages; and
13
14 I. Such other and further relief as may be just and proper.

15 **TRIAL BY JURY DEMANDED ON ALL COUNTS**
16
17

18 DATED: May 25, 2012

TAMMY HUSSIN

19
20
21 By: /s/ Tammy Hussin
22 Tammy Hussin, Esq.
23 Lemberg & Associates, LLC
24 Attorney for Plaintiffs Iris Alvarado and
25 Eulises Flores
26
27
28